

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**NEIMAN NIX,**

*Plaintiff,*

v.

**MAJOR LEAGUE BASEBALL, OFFICE OF  
THE COMMISSIONER OF BASEBALL;  
ROBERT D. MANFRED, JR.; MAJOR LEAGUE  
BASEBALL PLAYERS ASSOCIATION, *et al.*,**

*Defendants.*

**CIVIL ACTION NO. 4:21-CV-  
04180**

**DEFENDANTS' JOINT APPLICATION FOR ATTORNEYS' FEES AND DOUBLE  
COSTS**

Defendants<sup>1</sup> file this application for attorneys' fees and double costs pursuant to the order of the United States Court of Appeals for the Fifth Circuit that Defendants "submit evidence of [attorney's] fees," and respectfully show as follows:

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<sup>1</sup> Defendants include Major League Baseball, Office of the Commissioner of Baseball; Robert D. Manfred, Jr.; Timothy Maxey; Angels Baseball LP; Athletics Investment Group LLC d/b/a Oakland Athletics Baseball Company; Atlanta National League Baseball Club, LLC; AZPB Limited Partnership; Baltimore Orioles Limited Partnership; The Baseball Club of Seattle, LLLP; Boston Red Sox Baseball Club Limited Partnership; Chicago Cubs Baseball Club, LLC; Chicago White Sox, Ltd.; Cleveland Guardians Baseball Company, LLC; Colorado Rockies Baseball Club, Ltd.; Detroit Tigers, Inc.; Houston Astros, LLC; Kansas City Royals Baseball Club, LLC; Los Angeles Dodgers LLC; Marlins Teamco LLC; Milwaukee Brewers Baseball Club, Limited Partnership; Minnesota Twins, LLC; New York Yankees Partnership; Padres L.P.; Pittsburgh Associates; Rangers Baseball LLC; Rogers Blue Jays Baseball Partnership; San Francisco Giants Baseball Club LLC; St. Louis Cardinals, LLC; Sterling Mets L.P.; Rays Baseball Club, LLC; The Cincinnati Reds LLC; The Phillies; and Washington Nationals Baseball Club, LLC; Major League Baseball Players Association; Zackary Grant Antero Britton; The Gatorade Company; CytoSport, Inc.; NSF International; HVL LLC (named in the Complaint as "Klean Athlete"); LGC Science, Inc. (named in the Complaint as "Informed Choice"); NFI Consumer Products; ESPN, Inc; The Associated Press; USA Today; Howie Rumberg.

1. On December 27, 2021, Plaintiff Neiman Nix filed the above-captioned action, which was his seventh frivolous lawsuit against Major League Baseball and related entities and his second lawsuit against Media Defendants, Associated Press, ESPN, and USA Today.
2. On June 13, 2022, this Court dismissed Nix's claims with prejudice, finding that "Nix [is] a vexatious litigant who frequently and repeatedly pursues baseless litigation for harassment." ECF No. 75. This Court further sanctioned Nix from filing "new pleadings, cases, or motions in the Southern District of Texas, all divisions . . . unless he obtains the advance permission to do so from the Chief Judge of the Southern District of Texas or her delegatee." ECF No. 76, 78.
3. On July 12, 2022, Nix appealed this Court's order granting dismissal and sanctions. In addition to opposing the appeal, Defendants filed an additional motion for sanctions with the Court of Appeals requesting a circuit-wide injunction preventing Nix from filing any new lawsuit within the Fifth Circuit and seeking attorneys' fees and double costs in responding to the appeal.
4. On March 16, 2023, the United States Court of Appeals for the Fifth Circuit affirmed this Court's dismissal, this Court's sanctions order, and granted Defendants' additional motion for sanctions. The appellate court remanded to determine the amount of monetary sanctions, comprising the attorney's fees and double costs incurred by Defendants in responding to the appeal. Defendants now present this application pursuant to the Court of Appeals order.
5. Defendants incurred \$175,340.00 in reasonable and necessary attorneys' fees and \$563.16 in double costs in opposing Nix's appeal. *See* Exhibits 1-10, Defendants' Attorney

Declarations. A true and correct summary of the detailed billing statements of each attorneys' fees is included with its respective attorney declarations.

6. Under Rule 38 of the Federal Rules of Appellate Procedure, Defendants are entitled to attorneys' fees "if a court of appeals determines that an appeal is frivolous, it may, after a separately filed motion or notice from the court and reasonable opportunity to respond, award just damages and single or double costs to the appellee."
7. For these reasons, Defendants respectfully request that the Court award Defendants' attorneys' fees and double costs in the amount of \$175,903.16.

Dated: April 17, 2023

Respectfully submitted,

s/ Adriana Riviere-Badell

Adriana Riviere-Badell  
Attorney-in-charge  
S.D. Tex. No. 3727876  
KOBRE & KIM LLP  
201 South Biscayne Boulevard  
Suite 1900  
Miami, Florida 33131  
Tel: (305) 967-6117  
Fax: (305) 967 - 6120

s/ Michael Rubin

Michael Rubin (admitted pro hac vice)  
ALTSHULER BERZON LLP  
177 Post Street, Suite 300  
San Francisco, CA 94108  
Tel: (415) 421-7151  
Fax: (415) 362-8064

*Attorney for Defendants MLBPA, Zackary Britton*

Sydney Sgambato Johnson (admitted pro hac vice)  
KOBRE & KIM LLP  
1919 M Street, NW  
Washington, D.C. 20036  
Tel: (202) 664-1952  
Fax: (202) 664 – 1920

s/ Thomas M. Spitaletto

Thomas M. Spitaletto  
Texas Bar No. 00794679  
WILSON ELSER MOSKOWITZ  
EDELMAN & DICKER, LLP  
901 Main Street, Suite 4800  
Dallas, Texas 75202-3758  
Tel: (214) 698-8000  
Fax: (214) 698-1101

*Attorney for Defendant LGC Science, Inc.  
(Informed Choice)*

James E. Zucker  
Grant Martinez  
Elizabeth A. Wyman  
Texas Bar No. 24054302  
S.D. Tex. No. 957831  
YETTER COLEMAN LLP  
811 Main Street, Suite 4100

s/ Patrick M. McCarthy

Patrick M. McCarthy (admitted pro hac vice)

Houston, Texas 77002  
Tel: (713) 632-8000  
Fax: (713) 632-8002

*Attorneys for Defendants Major League  
Baseball, Timothy Maxey, Robert Manfred, and  
30 MLB Clubs*

s/ James B. Lake

Carol Jean LoCicero (admitted pro hac vice)  
James B. Lake (admitted pro hac vice)  
THOMAS & LOCICERO PL  
601 South Boulevard  
Tampa, FL 33606  
Tel: (813) 984-3060  
Fax: (813) 984-3070

*Attorneys for Defendants Associated Press,  
ESPN, USA Today, and Howie Rumberg*

s/ John R. Nelson

John R. Nelson  
Texas Bar No. 00797144  
DICKINSON WRIGHT PLLC  
607 W. 3rd Street, Ste. 2500  
Austin, TX 78701  
Tel: (512) 770-4214  
Fax: (844) 670-6009

*Attorney for Defendant NFI Consumer Products*

s/ Ashley Gomez

Trenton H. Norris (admitted pro hac vice)  
Ashley Gomez (pro hac vice pending)  
ARNOLD & PORTER KAYE SCHOLER LLP  
Three Embarcadero Center, 10th Floor  
San Francisco, CA 94111-4024  
Tel: (415) 471-3303  
Fax: (415) 471-3400

*Attorney for Defendant HVL LLC*

HOWARD & HOWARD ATTORNEYS  
PLLC  
450 West 4th Street  
Royal Oak, MI 48067  
Tel: (248) 723-0332  
Fax: (248) 645-1568

Howard L. Close  
Texas Bar No. 04406500  
Raffi Melkonian  
Texas Bar No. 24090587  
WRIGHT CLOSE & BARGER, LLP  
One Riverway, Ste. 2200  
Houston, TX 77056  
Tel: (713) 572-4321  
Fax: (713) 572-4320

*Attorneys for Defendant NSF International*

s/ Cullen Pick

Nancy L. Patterson  
Texas Bar No. 15603520  
SDTX Bar No. 10221  
Cullen Pick  
Texas Bar No. 24098260  
SDTX Bar No. 3257789  
MORGAN LEWIS & BOCKIUS LLP  
1000 Louisiana Street, Ste. 4000  
Houston, TX 77002  
Tel: (713) 890-5000  
Fax: (713) 890-5001

*Attorneys for Defendants The Gatorade  
Company and CytoSport, Inc.*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on April 17, 2023, true and correct copies of the following documents were served on Plaintiff by email and Fed Ex.

- Defendants' Joint Application for Attorneys' Fees and Double Costs
- Declaration of Adriana Riviere-Badell
- Declaration of Trenton H. Norris
- Declaration of Grant Martinez
- Declaration of James B. Lake
- Declaration of John R. Nelson
- Declaration of Nancy L. Patterson
- Declaration of Michael Rubin
- Declaration of Thomas M. Spitaletto
- Declaration of Raffi Melkonian
- Declaration of Patrick M. McCarthy
- Proposed Order in Support of Joint Application for Attorneys' Fees and Double Costs

The undersigned also certifies that on April 17, 2023, true and correct copies of the documents were electronically filed with the Clerk of Court using the CM/ECF system, which sends notifications of such filing to all counsel of record.

Dated: April 17, 2023

Miami, Florida

s/ Adriana Riviere-Badell  
Adriana Riviere-Badell